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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,960	12/31/2001	Andrew V. Anderson	42390.P9765X2	1569

8791 7590 12/22/2005

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EXAMINER

CHANKONG, DOHM

ART UNIT PAPER NUMBER

2152

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. -

10/039,960

Applicant(s)

ANDERSON ET AL.

Examiner

Dohm Chankong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1> This action is in response to Applicant's remarks, filed 9.29.2005. Claims 1-38 are presented for further examination.

2> This is a final rejection.

Response to Arguments

3> Applicant's arguments have been carefully considered but they are not persuasive. Applicant is arguing in substance that (a) the prior art references utilized in the previous office action fail to disclose or suggest selecting a plurality of persons to contact and (b) the references fail to disclose sending a message between a user via another device. The Office disagrees with Applicant's assertions for the reasons stated below.

In regards to (a), Horvitz discloses an email mechanism that enables a system to contact a plurality of people [0125, 0130-136]. Coupled with Avitan, their combination suggests a message prioritization system whereby multiple people may be contacted depending on the priority of a message [0136, 0251 : "pre-determined list of important people"].

In regards to (b), Horvitz discloses resending messages to different devices when unable to send a message to a first device based on the priority of the message [Figure 41 | 0274]. Horvitz discloses throughout his specification that the priority of messages helps determine what is done with the message such as forward it to certain devices or hold on to the message before forwarding it [see for example, 0065, 0075]. While Horvitz does not expressly disclose that the different device belongs to another user, such a variation is

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obvious and is not patentably distinct from Horvitz's embodiment. Further, as discussed previously, Horvitz suggests being able to send messages to a plurality of people depending on the importance of a received message. Based on Horvitz's teachings and what one of ordinary skill in the art would have known, it is obvious that Horvitz could be implemented such that the different devices, illustrated in Figure 41, would belong to different users.

4> Based on the preceding remarks, Applicant's arguments are not persuasive, and the rejections set forth in the previous action, filed 6.27.2005, are maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5> Claims 1-6, 8, 11-22, 26, 27, 29-32, 34 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz et al (US.2003/0046421) and Avitan (US. 2003/00178546).

6> Regarding claims 1, 11 and 34, Horvitz discloses a method, a computer readable medium comprising instruction and a digital assistant, e.g., computing device ("system", hereinafter), comprising, steps, means and executable instructions for:

receiving information of an event, (Fig. 1, Fig. 27);

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determining the level of importance of the event relative to a first person (§ 9, 11, 14-15, 65); and

if the event has level of importance greater than a first threshold, and a level of importance that is below a second predetermined threshold, then taking action without contact any person (the system employed threshold level for determining appropriate actions to be taken, e.g., such as sending notification without contact any one when threshold level is greater than 85 and less than maximum or send notification without contact any person when threshold level equal or higher than 95 and equal or below maximum, Fig. 23-26; § 17, 74-75, 83 and 105; threshold range Fig. 11-12, § 11, 16, 69, 74, 76-78, 90, 103, 105, 108-108, 110, 112, 25, 275-277 and 279-380; claims, 7, 8, 52, 70, 72-73, 80-83).

Horvitz does not explicitly disclose its' system includes a feature of selecting a person or a group of person to contact and attempting to contact the same.

However, in the same field of endeavor, Avitan teaches a wireless mobile computing telephone dialer, e.g., a digital assistant, for dialing telephone to contact a person or a group of person and attempting to dial the numbers to contact a person or a group of persons without contacting any one (Avitan, abstract; 104 - Fig. 1; 200-Fig. 2; § 4-5, 8-9, 28-33). Thus, it would have been obvious to one of ordinary skilled in the art at the time of the invention was made to expand Horvitz's application with a digital assistant's automatically dialing, without intervention from any user as suggested in Avitan, in order to enhance user convenience, reducing time consuming and error prone manual activity (Avitan, § 8-9).

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7> Regarding claims 18, 22, 26-27, 29 and 36-37, in addition, Horvitz-Avitan further discloses, capability of learning from feedback and adaptation in an appropriate way in according to the learning process, setting rule, implementing routing criteria in accordance with feedback from a client terminal, learning that the sent message failed to reached the user because he or she is away from the client device, and redirect the message to another specified client device , i.e., receiving failure in attempt to contact and determining a new appropriate course of action (Horvitz, block 88-Fig. 1, profile setting and adjustment, fig. 2, altering option Fig. 3, ¶ 14, 67-71, 103,-108).

8> Regarding claims 2, 12, 19 and 30, Horvitz-Avitan further discloses, comparing the subject of the event to a list of subjects of interest to the first person, (Horvitz, ¶ 100, III, 219).

9> Regarding claims 3, 13, 20 and 31, Horvitz -Avitan discloses, referring to information concerning the timing of activities in which a person is engaged, (Horvitz, ¶ 100, III, 219).

10> Regarding claims 4-5, 14-15, 21 and 32, Horvitz-Avitan discloses, referring to information concerning the current location of a person, (Horvitz, Fig. 23-25; ¶73, 115, 263, 264, 270-271, 281 and 289).

11> Regarding claims 6, 8, 16 and 17, Horvitz-Avitan discloses, the system capable of located user, device whereabouts, i.e., current location of a person is provided by a device carried by the at least one person, (Horvitz, Fig. 34).

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12> Regarding claims 38, Horvitz-Avitan discloses, taking action without contact any person, e.g., the system employed threshold level for determining appropriate actions to be taken, e.g., such as sending notification without contact any one when threshold level is greater than 85 and less than maximum or send notification without contact any person when threshold level equal or higher than 95 and equal or below maximum, (Horvitz, Fig. 23-26; ¶ 7, 74-75, 83 and 15).

13> Claims 7, 9, 10, 28, 33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz-Avitan, as applied to claims 1, 18, 29 and 34, and further in view of what was well known in the art.

14> Regarding claims 7, 9 and 10, Horvitz-Avitan discloses the invention substantially, as claimed, as described in claim 6, but Horvitz-Avitan does not explicitly include implementation of GPS device to locate a person. Official Notice is taken (see MPEP 2144.03) that using GPS device to specify location of a person was well known and widely implemented in the art at the time of the invention was made. Thus, it would have been obvious to one of ordinary skilled in the art at the time of the invention was made to expand a system that readily has a capability of locating user or any device carried by the user, such as suggested in Horvitz e.g., observing feedback from keyboard, mouse activity, or deriving user or device locations from predefined profile, by including a well-known device such as GPS to expand the utility ability and simplification of the system. The motivation to

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include the GPS device would to enhance system capacity, adaptability and competitiveness in the commercial market.

15> Regarding claims 28, 33 and 35, Horvitz-Avitan discloses the invention substantially, as claimed, as described in their base claims, including event detection and redirect notification when message failed to reach the designate destination, user or device, but it is silent to applying such event detection in a case of one may choose not to respond. However, applying Horvitz system toward any desirable way include one who desire not to response is clearly not an invention, it merely an implementation choice, in which a notice in the art can modified with a minor attempt to apply in accordance with fluid situation.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

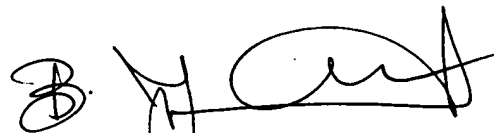
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:00 AM to 5:00 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC



BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER